

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division

DERRICK ANTONIO PHARR, #230290,

Petitioner,

v.

ACTION NO. 2:23cv483

CHADWICK DOTSON,
Director of the Virginia
Department of Corrections,

Respondent.

FINAL ORDER

Petitioner Derrick Antonio Pharr ("Pharr"), a Virginia inmate, filed a *pro se* petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. ECF No. 1. Pharr challenges his convictions in the Circuit Court for the City of Fairfax in June 2005 for rape and breaking and entering, for which he was sentenced to 27 years in the Virginia penal system. ECF No. 1, at 1. Respondent filed a motion to dismiss the petition, and Pharr responded to the motion. ECF Nos. 9, 15.

This matter was referred to the United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Local Civil Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia. On March 29, 2024,

the Magistrate Judge prepared a report and recommendation, recommending that respondent's motion to dismiss, ECF No. 9, be granted, and the petition for a writ of habeas corpus, ECF No. 1, be denied and dismissed with prejudice as barred by the statute of limitations. ECF No. 18. Each party was advised of the right to file written objections to the findings and recommendations made by the Magistrate Judge. *Id.* at 5. On May 6, 2024, the Court received Pharr's objections. ECF No. 21.

The Court, having reviewed the record and examined the objections filed by Pharr to the report and recommendation, and having made *de novo* findings with respect to the portions objected to, does hereby adopt and approve the findings and recommendations set forth in the report and recommendation. The Court, therefore, **ORDERS** that respondent's motion to dismiss, ECF No. 9, is **GRANTED**, and the petition for a writ of habeas corpus, ECF No. 1, is **DENIED** and **DISMISSED WITH PREJUDICE** as barred by the statute of limitations.

Finding that the basis for dismissal of Pharr's section 2254 petition is not debatable, and alternatively finding that Pharr has not made a "substantial showing of the denial of a constitutional right," a certificate of appealability is **DENIED**. 28 U.S.C. § 2253(c); see Rule 11(a) of the Rules Gov. § 2254 Cases

in U.S. Dist. Cts.; *Miller-El v. Cockrell*, 537 U.S. 322, 335-38 (2003); *Slack v. McDaniel*, 529 U.S. 473, 483-85 (2000).

Pharr is **ADVISED** that because a certificate of appealability is denied by this Court, he may seek a certificate from the United States Court of Appeals for the Fourth Circuit. Fed. R. App. P. 22(b); Rule 11(a) of the Rules Gov. § 2254 Cases in U.S. Dist. Cts. If Pharr intends to seek a certificate of appealability from the Fourth Circuit, he must do so within thirty (30) days from the date of this Order. Pharr may seek such a certificate by filing a written notice of appeal with the Clerk of the United States District Court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510.

The Clerk shall forward a copy of this Final Order to Pharr and counsel of record for respondent.

/s/ 

Mark S. Davis
Chief Judge

Mark S. Davis
Chief United States District Judge

Norfolk, Virginia
May 23, 2024